

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DOUGLAS WARNEY,

Plaintiff,

DECISION AND ORDER

07-CV-6246L

v.

THE CITY OF ROCHESTER,  
MONROE COUNTY,  
SANDRA ADAMS, in her individual capacity,  
EVELYN BEAUDRAULT, in her individual capacity,  
LARRY BERNSTEIN, in his individual capacity,  
STEPHEN EDGETT, in his individual capacity,  
THOMAS JONES, in his individual capacity,  
WENDY EVAN LEHMAN, in her individual capacity,  
ROBERT GARLAND, in his individual capacity,  
JOHN GROPP, in his individual capacity,  
MICHAEL C. GREEN, in his individual and official capacities,  
JOHN DOE OFFICERS and/or DETECTIVES #1-10,  
in their individual capacities,  
RICHARD ROE SUPERVISORS #1-10,  
in their individual capacities,


Defendants.

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Shortly after the conclusion of the oral argument on defendants' motion to dismiss, I received a letter from defendants' counsel, Michael Davis, requesting leave to file two affidavits. Plaintiff's counsel responded and opposed the request.

Since the motion is one to dismiss, the Court is limited to analyzing the complaint and its sufficiency. Therefore, matters *dehors* the complaint may not be considered on such a motion. Therefore, I deny the request for additional submissions at this time. Should the Court decide to convert the pending motion to one for summary judgment, all parties will be so advised and the parties may proceed accordingly.

IT IS SO ORDERED.



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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
January 30, 2008.